

### **REMARKS**

In view of the following comments, and pursuant to 37 C.F.R. § 1.114, Applicant respectfully requests reconsideration of the Office Action.

#### **Summary of the Amendment**

The Office Action provided grounds for the rejection of claims 1, 8, 9, 11-19, 22-24, and 32-34. Claims 2-7, 10, 20-21, and 25-31 were previously canceled. Applicant respectfully requests reconsideration of pending claims 1, 8, 9, 11-19, 22-24, and 32-35, and allowance of the present application in view of the following remarks.

#### **Detailed Remarks**

##### **I. Declarations Under 37 CFR 1.131**

Assignee submits 1.131 Declarations that establish conception of the invention claimed in the present Application before August 26, 1999, coupled with continuous diligence from at least February 29, 2000, which is prior to the effective date of the U.S. Patents 6,311,041 ("Goodyear"), and 6,381,444 ("Aggarwal et al."), and U.S. Patent Application Publications 2002/0187462 ("Mariappan"), and 2003/0180700 ("Barry et al."). See Appendices 1 and 2. Thus, Assignee respectfully submits that Goodyear, Aggarwal et al., Mariappan, and Barry et al. are disqualified as prior art for the present Application.

For the assistance of the Examiner, the following section summarizes the declarations and evidence supporting the prior invention.

##### **A. Appendix 1**

Declaration Under Rule 1.131 by Assignee Ana Kalisiak- Ward. Because the inventor is deceased, this declaration is provided by the Assignee. In this declaration, evidence is provided that the claimed invention was conceived before August 26, 1999, which is prior to the effective date of Goodyear, and Aggarwal, and Mariappan, and Barry. The declaration avers that the inventor and others at the Polish Open University

were diligent in reducing the invention to practice. The Ana Kalisiak- Ward declaration is supported by corroborating evidence of the conception and reduction to practice.

Exhibit A, attached to the Declaration is a document entitled "Wprowadzenie kształcenia w Wyższej Szkole Zarządzania" with accompanying English translation, which describes features of an e-learning system invented by Jerzy Kalisiak. Exhibit A, at pages 1, 4-6, and 7-9 of the English translation, discloses test work results on-line support, on-line exam registration, on-line exam results support, and on-line consultations. The document includes metadata that identifies that it was last modified on August 26, 1999 and is being submitted as evidence that existed prior to August 26, 1999, which was created by the inventor that shows conception of the subject matter disclosed and claimed in the present application.

Exhibit B is a document entitled "Bulletin of the Polish Open University (POU) no. 3/2001," which was published on September 10, 2001. The Bulletin no. 3/2001, at pages 5-6, discloses that the testing of the system of electronic consultations and the availability of the service on October 01, 2001 to all students. The document is being submitted as evidence that existed prior to September 10, 2001 and shows the reduction to practice of the subject matter disclosed and claimed in the present application.

Exhibit C is a document entitled "E-Learning warsztaty" with accompanying English translation, and an internal email dated October 21, 2001 from the inventor's organization that shows the "E-Learning warsztaty" document attached. The document is being submitted as evidence that existed prior to October 21, 2001 and shows conception of the subject matter disclosed and claimed in the present application.

Exhibit D is a document entitled "Studiaz aoczneg trybiee –learning. Poradnik dla studentow studiow licencjackich ('Guidebook for bachelor students') with an accompanying English translation. The document is being submitted as evidence that existed prior to December 12, 2001 and shows conception and reduction to practice of the subject matter disclosed and claimed in the present application. The subject matter described in the document was created by Jerzy Kalisiak and forwarded to the PRET SA company to publish a user guide and demo for the E-Learning system which was

previously implemented at POU, as noted by Exhibit B. The PRET SA company confirmed receipt of original Polish version of Exhibit D on December 12, 2001, and subsequently produced a presentation on CD-ROM that demonstrated the invention, as claimed. Exhibit D, at pages 2-3 and 7-9 of the English translation, discloses that under the general rules of studying using the flexible system, as claimed, a student is able to receive electronic consultations, on-line workshops, downloadable test works, and review sessions before each examination. Exhibit D, at page 12 of the English translation, discloses that when a student that logs into the session after the session has begun is directed to a waiting room, as claimed. The document shows that Jerzy Kalisiak conceived of and reduced to practice the subject matter disclosed and claimed in the present application prior to December 12, 2001.

#### **B. Appendix 2**

Declaration Under Rule 1.131 by Representative of the Polish Open University, Zuzanna Kalisak. This declaration is provided to corroborate the conception of the invention and continuous diligence by representatives of the University to reduce the invention to practice. The Zuzanna Kalisak declaration relies upon the same Exhibits A-D as described above.

In addition, the Zuzanna Kalisak declaration relies upon Exhibit E, which discloses a project chart showing the actual timelines of the continuous development, build out testing, and release of the E-Learning system.

#### **II. Rejections Under 35 U.S.C. § 103(a)**

##### Claims 1, 8, 9, 11-19, 22-24, and 32-34

The Office Action asserts rejections of the claims, under 35 U.S.C. 103(a), in view of Ziv-el et al. in view of (U.S. Patent Publication No. 2001/0034016), in view of Mariappan, in further view of Mortimer et al. (U.S. Patent No. U.S. 6,091,930), in further view of additional references, as noted below.

- a) The Office Action rejected claims 1, 8-9, and 11, under 35 U.S.C. 103(a) as being unpatentable over Ziv-el, in view of Mariappan, in further view of

Mortimer, in view of Aggarwal, in view of Dowling (U.S. Patent No. 6,845,361), in view of Mercks et al. (U.S. Patent No. 6,384,893), in view of Rosen (U.S. Patent No. 5,836,771), in view of Shende et al. (U.S. Patent No. 6,341,212), in view of Eisendrath et al. (U.S. Patent No. 6,198,904), further in view of Frasson et al. (U.S. Patent No. 6,341,960).

- b) The Office Action rejected claims 17-18, under 35 U.S.C. 103(a) as being unpatentable over Ziv-el, in view of Mariappan, in view of Mortimer, in view of Aggarwal, in view of Rosen, in view of Shende, in view of Eisendrath, in view of Frasson, in view of Mercks, further in view of what would have been known to a person skilled in the art.
- c) The Office Action rejected claims 19, 24 and 32-33, under 35 U.S.C. 103(a) as being unpatentable over Ziv-el, in view of Mariappan, in view of Mortimer, in view of Aggarwal in view of Sallette (U.S. Patent No. 6,155,840), in view of Rosen, in view of Shende, in view of Eisendrath, in view of Mercks, and further in view of Frasson.
- d) The Office Action rejected claim 34, under 35 U.S.C. 103(a) as being unpatentable over Ziv-el, in view of Mariappan, in view of Mortimer, in view of Mercks, and further in view of Eisendrath.
- e) The Office Action rejected claims 12-14 and 23, under 35 U.S.C. 103(a) as being unpatentable over Ziv-el, in view of Mariappan, in view of Mortimer, in view of Aggarwal, in view of Sallette, in view of Rosen, in view of Shende, in view of Eisendrath, in view of Frasson, in view of Mercks, further in view of Raichur et al. (U.S. Patent Publication No. 2001/0034015).
- f) The Office Action rejected claims 15 and 22, under 35 U.S.C. 103(a) as being unpatentable over Ziv-el, in view of Mariappan, in view of Mortimer, in view of Aggarwal, in view of Sallette, in view of Rosen, in view of Shende, in view of Eisendrath, in view of Frasson, in view of Mercks, further in view of Barry et al.
- g) The Office Action rejected claim 16, under 35 U.S.C. 103(a) as being unpatentable over Ziv-el, in view of Mariappan, in view of Mortimer, in view of

Aggarwal, in view of Sallette, in view of Rosen, in view of Shende, in view of Eisendrath, in view of Frasson, in view of Mercks, further in view of Goodyear.

Regarding Aggarwal, the Office Action, at page 8, asserts that Aggarwal allegedly teaches the discussion of issues by the lecturer and student discussion, wherein the means for discussion is a chat. However, Aggarwal, at col. 1, ll. 63-67 to col. 2, ll. 1-9, discloses that the instructor places lesson material on a server computer, the instructor may schedule "chat sessions", during which the instructor and the students can discuss (typically through typewritten interaction) aspects of the lesson material, and the students may interact with the teacher over the telephone. Aggarwal, at col. 4, ll. 34-39, discloses that the virtual class consists of three modules: students, a central server computer and instructors, peer interaction may occur at any time, as happens in a real classroom environment, and the students may interact with other students via a direct connection. Aggarwal, at col. 6, ll. 64-67, discloses that online peer interaction (student to student) also forms part of this invention, voice or typewritten interaction can happen between two students, in the same way interaction takes place between a student and an instructor. Aggarwal, at col. 7, ll. 1-5, discloses that the main difference is that the present invention does not assume that students are connected to, or even know of, each other, students communicate through the server, which knows which students are attending which class, locations and academic levels of students and the times a student joined the current class. Aggarwal, at col. 7, ll. 5-11, discloses that the server makes intelligent suggestions to the student as to who would be an appropriate peer with whom to chat, and the student is at liberty to ignore the server's suggestion and choose a peer to chat with at the student's own discretion.

In contrast to Aggarwal, the exhibits disclose the features of claim 1, at step e), that recites establishing at least one interactive on-line session of electronic workshops (21) for each module (M1, M2,...Mn) within each education level (10, 11, 12, 13, 14) in a predetermined time after the registration (20) of the students (1), at least one interactive session being established through the educational platform (3) containing a web site and divided into several independent parts (A1, B1, B2, B3, B4) with the same

or different duration, wherein in the part (B2) – checking of the exercise solutions by the lecturer (4) and a discussion between the students by means of remote communication means in the form of at least one tool selected from a group consisting of: electronic mail, voice mail, discussion group, chat and forum .

Regarding Mariappan, the Office Action, at page 5, asserts that Mariappan allegedly teaches dividing the education program into several education levels of which each one education level includes at least one module the at least one module corresponding in its contents to a subject of a traditional education, providing each registered student with at least one electronic data carrier. The Office Action, at page 5, further asserts that Mariappan, at ¶¶ 0027 and 0039, allegedly teaches allowing a student to perform registration at a server, and activating electronic consultations between the students and the lecturers, with the use of remote communication means by using chat or email. The Office Action, at page 6, further asserts that Mariappan, at ¶¶ 0048 and 0053, allegedly teaches providing each student following the termination of a predetermined session with a subject of a test work for individual preparation and submission of a test work report to educational platform, and conducting a final examination for each module. Mariappan, at ¶¶ 0007 and 0039, discloses that a further object of the invention to save instructors and teachers time by allowing them to assign homework and practice exams online, and where an answer to a student's question is unavailable, he can submit his own question, which is sent as an email to trained personnel, who respond directly to an email address provided by the student.

In contrast to Mariappan, the exhibits also disclose the features of claim 1, at step b), that recites dividing the education program into several education levels (10, 11, 12, 13, 14), of which each one education level includes at least one module (M1, M2,...Mn), the at least one module corresponding in its contents to a subject of a traditional education, and c) registering each student (1), within a registration (20), at an education center. Exhibits A, B, C, and D also disclose the features of claim 1, at step d), that also recites providing each registered student (1), within the registration (20), with at least one electronic data carrier in the form of CD or DVD disk for each module (M1, M2,...Mn), and also with an access password (35) to the educational platform (3),

the single CD or DVD disk containing a workshop material (32), a multi-media electronic textbook (33) for independent study, a starter package (34) including a particular didactic guide and a technical instruction as well as a software necessary to open the formats of the files contained in the workshop material (32) and the electronic textbook (33), and a syllabus (31). Claim 1, at step f), further recites activating electronic consultations (22) between the students (1) and the lecturers (4), following the termination of each interactive session of the electronic workshops (22), with use of remote communication means in the form of at least one tool selected from a group consisting of: electronic mail, voice mail, discussion group, chat and forum. Claim 1, at step g), recites providing each student (1), following the termination of a predetermined session, preferably the first session of the electronic workshops (21), with a subject of a test work (23) for individual preparation and submission of a test work report to the university at a predetermined time, and h) conducting a final examination (25, 25a) for each module (M1, M2,...Mn ).

Regarding Barry, the Office Action, at pages 18-20, asserts that Barry, at ¶¶ 0021 and 0031, allegedly teaches that archived electronic workshops are available to the students via an interfaced network and the step of activating archived electronic workshops. However, Barry, at ¶ 0021, discloses that user terminals communicate with the database via a communication system such as network. Barry, at ¶ 0031, discloses the user's ability to select a learning lesson from an archive of learning lessons.

In contrast to Barry, the exhibits disclose the features of claim 15, which depends from claim 1, that recites the step of activating interactive archived electronic workshops, the archived workshops being activated after the termination of the electronic workshops (21), but prior to returning the test work report, preferably solely to the scope of the first part (A1) of the electronic workshops (21). Further regarding Barry, the exhibits also disclose the features of claim 22, which depends from claim 1, that recite that archived workshops included in the web site of the educational platform (3) are accessible through the use of the access password (35) and the student's identification number.

Regarding Goodyear, the Office Action, at pages 20-21, asserts that Goodyear, at col. 7, ll. 21-24, allegedly teaches that instructors communicate grades to students by posting student grades to a website. Goodyear, at col. 7, ll. 21-24, discloses that the test is posted on the site in step 72 by the system administrator 16, he officials 12 thereafter access the site to take the test in step 74, permitting the training authority 18 to use the site to review the completed tests and to post test results in step 76.

In contrast to Goodyear, the exhibits disclose the features of claim 16, which depends from claim 1, that recites the lecturer (4) sends to the students (1) in a determined time, advantageously by electronic mail, results of the control work together with a commentary .

In view of the timely filed 1.131 Declarations that establish conception of the invention claimed in the present Application before August 26, 1999, and continuous diligence until a later reduction to practice, the Goodyear, Aggarwal, Mariappan, and Barry are disqualified as prior art for the present Application, and Assignee respectfully requests that these § 103 rejections be withdrawn.

### **Conclusion**

In view of the above remarks, Applicant respectfully submits that this Application is in condition for allowance and such action is earnestly requested. If for any reason the Application is not allowable, the Examiner is requested to contact the Applicant's undersigned attorney.

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